

against the fourth plaintiff \$3,640 (\$260 p.m. for 14 months).

On item (2) — (A) against the first and second plaintiffs \$630 (\$30 p.m. for 21 months); (B) against third plaintiff \$630; (C) against fourth plaintiff \$630.

I do not think that this is a case where aggravated damages or punitive damages should be awarded.

There will therefore be judgment for the defendants on their counterclaim and costs.

Judgment for the defendants.

PUBLIC PROSECUTOR v. M.M. PILLAY

[A.Cr.J. (Wee Chong Jin C.J.) April 20, 1977]
[Singapore — Magistrate's Appeal No. 4 of 1977]

Road Traffic — Restricted zone and licensing — Motor Vehicles (Restricted Zone and Area Licences) Rules 1975 rr. 3 & 8 — Whether ultra vires — Road Traffic Act (Cap. 92) ss. 70 and 90(1).

Under rule 3 of the Motor Vehicles (Restricted Zone and Area Licences) Rules 1975 'No person shall drive a motor vehicle into the restricted zone as described in the First Schedule during restricted hours unless there is in force in respect of such vehicle an area licence issued under these Rules.' The restricted hours at the relevant time of this case were from 7.30 a.m. to 10.15 a.m.

The respondent, on December 11, 1975 at about 8.40 a.m. drove his car into the "restricted zone" without first obtaining an "area licence" by paying the then prescribed fee of \$3/-. He was charged for having contravened rule 3. At the trial counsel on his behalf before any evidence was led, raised a preliminary objection to the charge. It was contended on behalf of the accused that the Rules were *ultra vires* in that section 90(1) of the Road Traffic Act did not confer any power on the Minister to make rules to prohibit, except upon payment of a fee, motor vehicles from using any road. The Magistrate accepted this contention and acquitted the respondent. The Public Prosecutor appealed and the sole question for determination was whether or not section 90(1) of the said Act gave power to the Minister to make the Rules.

Held: (1) *prima facie* the purpose of the Rules is not to collect fees but to reduce the number of motor vehicles entering the "restricted zone" in order to ease traffic congestion on the roads within the "restricted zone" during the "restricted hours" and the imposition of a fee for entering the "restricted zone" during the "restricted hours" is the means adopted to achieve the desired purpose and is merely incidental thereto. The Rules were therefore validly made;

(2) the Rules do not prohibit traffic on the road within the "restricted zone" and on their true construction they are rules which regulate traffic into and within the "restricted zone".

The following cases were cited in argument: *Attorney-General for Canada v. Hallet & Carey Ltd.* [1952] A.C. 427 (P.C.); *McEldowney v. Forde* [1971] A.C. 632 (H.L.); *Russell (Inspector of Taxes) v. Scott* [1948] 2 All E.R. 1; *D'Avigdor-Goldsmid v. Inland Revenue Commissioners* [1953] 1 All E.R. 403; *Inland Revenue Commissioners v. Wolfson* [1949] 1 All E.R. 865; *Birmingham and Midland Motor Omnibus Co. Ltd. v. Worcestershire County Council* [1967] 1 W.L.R. 409; *Cape Brandy Syndicate v. Inland Revenue Commissioners* [1920] 1 K.B.D. 64; *Congreve v. Home Office* [1976] 1 All E.R. 697; *Padfield & Ors. v. Minister of Agriculture, Fisheries and Food & Ors.* [1968] 1 All E.R. 694; *Attorney-General v. Wills United Dairies* (1922) 38 T.L.R. 781.

MAGISTRATE APPEAL.

Tan Teow Yeow (Deputy Public Prosecutor) for the appellant.

J.B. Jeyaretnam for the respondent.

A Wee Chong Jin C.J.: On May 10, 1975 the Minister for Communications in exercise of the powers conferred by section 70 and section 90(1) of the Road Traffic Act (hereinafter referred to as "the Act") made the Motor Vehicles (Restricted Zone and Area Licences) Rules, 1975 (hereinafter referred to as "the Rules") which were duly published in the *Government Gazette* and presented to Parliament as required by section 91 of the Act.

The relevant provisions of the Rules read as follows:—

"1. These Rules may be cited as the Motor Vehicles (Restricted Zone and Area Licences) Rules, 1975 and shall come into operation on June 2, 1975.

C 2. In these Rules, unless the context otherwise requires —
'area licence' means a licence issued in respect of a motor vehicle authorising such vehicles to enter the restricted zone during restricted hours;

'restricted hours' means the period from 7.30 a.m. to 10.15 a.m. daily except on Sundays and public holidays;

'restricted zone' means any road or part thereof within the area described in the First Schedule.

D 3. No person shall drive a motor vehicle into the restricted zone as described in the First Schedule during restricted hours unless there is in force in respect of such vehicle an area licence issued under these Rules.

5.—(2) The fee for an area licence shall be three dollars per day or sixty dollars per month.

8. The following vehicles shall be exempted from the provisions of these Rules:—

- E** (a) Ambulances;
(b) Fire engines;
(c) Police Vehicles;
(d) Military Vehicles except saloon cars and station wagons;
(e) Motor cycles;
(f) Omnibuses;

- F** (g) Taxis;
(h) Private Cars (School Transport);
(i) Goods vehicles, except passenger cars, station wagons and other passenger vehicles with a seating capacity of less than twelve persons which are licensed as goods vehicles;
(j) Private buses and mini-buses with a seating capacity of twelve or more persons; and
(k) Motor-cars including station wagons and other passenger vehicles, carrying at least four persons at the time of entry into the restricted zone."

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The "restricted zone" as demarcated in the First Schedule comprises the heart of our city and it is common knowledge that, prior to the enactment of the Rules, during morning and afternoon peak hours the volume of vehicular traffic entering and leaving the "restricted zone" was such as to cause serious traffic congestion, a problem common to all big cities everywhere. The authorities tackled this problem by the enactment of the Rules which came into operation on June 2, 1975. Seventeen days later, on June 19, 1975, taxis were taken out of the categories of vehicles exempted from the provisions of the Rules. On July 11, 1975 the "restricted hours" were extended from "between 7.30 a.m. to 9.30 a.m." to "between 7.30 a.m. to 10.15 a.m." by amendments to the Rules.

I At about 8.40 a.m. on December 11, 1975 the respondent, M.M. Pillay, drove his car into the "restricted zone" without first obtaining an area licence by paying the then prescribed fee of \$3. Accordingly he was charged for having contravened rule 3. At

the trial counsel on his behalf, before any evidence was led, raised a preliminary objection to the charge. It was contended that the Rules were *ultra vires* in that section 90(1) of the Act did not confer any power on the Minister to make rules to prohibit, except upon payment of a fee, motor vehicles from using any road. The Magistrate accepted this contention and acquitted the respondent. The Public Prosecutor now appeals and the sole question for determination is whether or not section 90(1) of the Act gives power to the Minister to make the Rules.

It is contended on behalf of the Public Prosecutor that the Rules have been validly made and are within the powers conferred on the Minister by section 90(1) of the Act which reads as follows:—

“90. — (1) The Minister may make rules for prescribing the language and script in which any traffic sign, notice, record, application, return or other documents shall be written and may make rules for any purpose for which rules may be made under this Act and for prescribing anything which may be prescribed under this Act and generally for the purpose of carrying this Act into effect and in any rules made by him may prescribe penalties (not exceeding those provided by section 82 of this Act) for any breach or failure to comply with any such rules.”

Reliance is placed upon the words “and generally for the purpose of carrying this Act into effect”, and the long title of the Act as an enactment “to make provisions for the regulation of traffic on roads and of motor vehicles and otherwise with respect to roads and vehicles thereon...”.

It is argued that in construing the extent of the powers conferred on the Minister to make rules by the words “and generally for the purpose of carrying this Act into effect” in section 90(1) it is proper to look at the long title of the Act. Looking at the long title, it is submitted that as the Act provides, *inter alia*, for the regulation of traffic on roads and otherwise with respect to motor vehicles on roads, the power conferred on the Minister by the words “and generally for the purpose of carrying this Act into effect” enables the Minister lawfully to make rules the purpose of which is to regulate traffic on roads. It is further submitted that the Rules in question are rules for the purpose of easing traffic congestion on roads within defined parts of the city and accordingly are rules the purpose of which is to regulate traffic on roads within the defined parts of the city. On behalf of the respondent it is contended that the primary purpose of the Rules is to impose a fee on motor vehicles entering the “restricted zone” and that section 90(1) of the Act does not empower the Minister to collect fees for entering any road.

In my opinion, it is plain that the combined effect of rule 3 and rule 8 prohibits only two categories of motor vehicles from entering the “restricted zone”, except upon payment of a fee. The two categories are (a) private buses and mini-buses with a seating capacity of less than twelve persons and (b) private cars, taxis and other passenger vehicles licensed as goods vehicles carrying less than four persons. All other motor vehicles are not affected by the Rules. It follows, in my opinion that *prima facie* the purpose of the Rules is not to collect fees but to reduce the number of motor vehicles entering the “restricted zone”

A in order to ease traffic congestion on the roads within the “restricted zone” during the “restricted hours” and the imposition of a fee for entering the “restricted zone” during the “restricted hours” is the means adopted to achieve the desired purpose and is merely incidental thereto.

B It is also contended on behalf of the respondent that the power conferred on the Minister to make rules to regulate traffic on roads does not include the power to make rules prohibiting traffic on roads and that the Rules on their true construction prohibit traffic on roads within the “restricted zone”. I am unable to accept this contention. In my judgment the Rules, truly interpreted, do not do so. It is clear from rule 8 of the Rules that not *all* motor vehicles are prohibited from entering the “restricted zone”. It is also clear that vehicles which are in the “restricted zone” are not prohibited by the Rules from using, during the “restricted hours”, the roads within the “restricted zone”. Accordingly, in my opinion, the Rules do not prohibit traffic on roads within the “restricted zone” and on their true construction they are rules which regulate traffic into and within the “restricted zone”.

Lastly, it is to be observed that section 91 of the Act provides for all rules made under the Act to be published in the *Gazette* and to be laid before Parliament as soon as may be after publication and for Parliament, if it thought fit, by due resolution to annul any rules made under the Act.

Accordingly, in my judgment the Rules are within the powers conferred on the Minister by section 90(1) of the Act. The appeal is allowed and the case remitted to the trial court for hearing on its merits.

Appeal allowed.

Solicitors: J.B. Jeyaretnam & Co.